

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 1:04-cr-183
)	
v.)	Honorable David W. McKeague ¹
)	
BILLY EDWARD HOLMES,)	
)	
Defendant.)	
)	

ORDER DENYING MOTION FOR RECONSIDERATION

By judgment entered May 6, 2005, this court sentenced defendant to 70 months' imprisonment, after defendant entered a plea of guilty to possession with intent to distribute over five grams of crack cocaine. 21 U.S.C. § 841(a)(1). Additionally, this court imposed a fine of \$2,300.00, with a lump sum payment of \$100.00 due immediately and the remainder to be paid in equal monthly installments of \$50.00 during defendant's period of supervised release. (Judgment, docket # 31). Presently pending before the court is defendant's motion for "reconsideration," purportedly filed pursuant to 18 U.S.C. §§ 3663 and 3664.

Defendant's motion for reconsideration does not seek any modification of the court's judgment. Rather, defendant complains about actions taken by a correctional counselor at defendant's place of incarceration. Defendant alleges that his counselor is denying him certain

¹ Honorable David W. McKeague, United States Circuit Judge for the Sixth Circuit Court of Appeals, sitting by designation.

privileges on the basis of defendant's alleged refusal to pay his fine. Defendant's grievance has nothing to do with the terms of this court's judgment, but concerns the conditions of his confinement. This fact is made patently clear by the prayer for relief, which seeks an order advising the counselor to follow the court's judgment concerning the payment of his fine. This relief is not appropriately sought in a "motion for reconsideration" of the criminal judgment. If defendant believes that his counselor is acting inappropriately, defendant should pursue administrative remedies within the prison and, if appropriate, may file a civil rights action in the district of his incarceration. Accordingly:

IT IS ORDERED that defendant's motion for reconsideration (docket # 34) be and hereby is DENIED.

Dated: September 14, 2005

/s/ David W. McKeague
David W. McKeague
United States Circuit Judge